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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 2nd February 2009

No. 937—li/1(J)-3/2009-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 21st November 2008 in Industrial Dispute Case No. 17/1997 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the management of Ballarpur Industries Ltd. and its workman Shri Padma Charan Biswal was referred for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT  
JEYPORE, KORAPUT

INDUSTRIAL DISPUTE CASE No. 17 OF 1997

Dated the 21st November 2008

*Present :*

Shri P. K. Jena, o.s.j.s. (Jr. Branch),  
Presiding Officer, Labour Court, Jeypore,  
Dist. Koraput.

*Between :*

The Management of	..	First Party—Management
M/s Ballarpur Industries Ltd.,		
Unit Sewa, Gaganpur,		
At/P.O. Jeypore, Dist. Koraput.		

*Versus*

Its Workman	..	Second Party—Workman
Shri Padma Charan Biswal,		
C/o Binaleer Biswal		
Vill. Ratana, P.O. Lekaka,		
Dist. Dhenkanal.		

Under Sections 10 and 12 of the Industrial Disputes Act, 1947

*Appearances :*

For the Management	..	Shri Kedar Nath Samantaray, Advocate, Jeypore.
For the Workman	..	Shri M. M. Raut, Advocate, Jeypore
Date of Argument	..	21-11-2008
Date of Award	..	21-11-2008

The Government of Orissa in the Labour & Employment Department in exercise of the power conferred upon them under sub-section (5) of Section 12, read with Clause (d) of sub-section (1) of Section 10 of the I. D. Act, 1947 (14 of 1947), have referred the following disputes vide their Order No. 9025(5), dated the 25th July 1997 for adjudication of the following disputes :—

## SCHEDULE

“Whether the action of the management of Ballarpur Industries (P) Ltd., Unit Sewa, Gaganpur, Jeypore in refusing employment to Shri Padma Charan Biswal, Security Guard with effect from the 16th July 1995 is legal and/or justified ? If not, what relief Shri Biswal is entitled to ?”

## AWARD

2. The Second party-workman Shri Padma Charan Biswal, ex-Security Guard filed his claim statement and pleaded that he was an employee in the Sewa Paper Mill Ltd., Jeypore since the 2nd April 1983 being appointed by the first party-management. The workman performing his duties to the best of his ability and sincerity till the 26th November 1994. Due to his illness and non-functioning of his right leg, he applied for leave from the 27th November 1994 till the 20th December 1994 which was approved by the Security Officer. Due to his illness he proceeded to City Hospital at Cuttack and was under medical treatment as indoor patient from the 15th December 1994 till the 15th July 1995 and the concerned Doctor, advised him to take complete bed rest. In that respect the workman sent a leave application in the address of the Deputy General Manager, Personal BILT, Unit Sewa on the 21st December 1994 and the 16th January 1995 by under certificate of posting requesting to extend his leave till the 15th July 1995. But on the 30th June 1995, the workman received a letter from the management and from that letter he could know that another letter was issued to him on the 2nd May 1995 in which he was directed to join in his duty immediately. After discharge from the Hospital, the workman immediately proceeded to the Mill and submitted his joining report. But he was denied to join his duty by the management. He learnt from other workers that Shri Deepak Kumar Panda has been appointed as an Enquiring Officer to hold an enquiry in this regard. In spite of giving of his joining report before the management, he was refused to join in his duty with effect from the 16th July 1995. So the workman from the 17th July 1995 sitting idle without any work, expecting a favourable order from his employer, but no action

had been taken by the management in this regard. When he prayed before his Higher Authority to reinstate the service, the authority concerned refused his re-engagement in service. The workman is entitled to get his leave salary from the 27th November 1994 till the 16th July 1995. Thereafter he raised the dispute before the District Labour Officer, Jeypore in which the conciliation proceeding was started and after its failure his dispute was referred for adjudication. The workman has alleged that in the proceeding started against him the principles of natural justice has not been followed. In view of the above the workman has prayed to reinstate him in his past service and to set aside the order of the management and giving him back wages.

3. The first party-management filed his written statement and pleaded that the workman is guilty of gross misconduct and negligence in his duty and violated the departmental rules. As per the written statement filed by the first party-management the present case arose as the workman remained absent from duty unauthorisedly from the 21st December 1994, for which show cause notice was issued to him and he was advised to report for duty immediately vide letter No. 2957, dated the 2nd May 1995 but the said letter was returned undelivered with postal remark as addressee is not available in village. Further letter was also sent to him on the 31st May 1995 which was also returned back undelivered. Though the opportunity was given to the workman to offer the enquiry, but the said enquiry was conducted *ex parte* as the workman did not attend. Subsequently the workman was dismissed from the service of the Company on the 20th February 1996 for remaining absent since the 21st December 1994. On the aforesaid circumstances, dismissal of the second party-workman is legal and justified and his claim is unjustified.

4. Previously in this case the workman has been examined as W.W. No. 1 whereas the management has been examined as M. W. No. 1. Taking into consideration of both the parties and after perusal of the available documents the reference was disposed of on the 22nd March 1999 in this Court in favour of the workman with a finding to reinstate him with full back wages. Subsequently the lower Court Award was challenged before the High Court by the management in O.J.C. No. 7081 of 1999 in which Hon'ble High Court in his finding, dated the 11th April 2008 allowed the writ petition and quashed the Award of the Presiding Officer, Labour Court, Jeypore, dated the 22nd March 1999 passed in I. D. Case No. 17/1997 with direction to decide the reference afresh keeping in view of the admitted fact that the workman has been dismissed/terminated from the service by the management with effect from the 20th February 1996 while he was discharging his duty as a workman under the management.

5. After receipt of the order of the Hon'ble High Court to dispose this matter expeditiously, notices were issued to both parties to appear and to adduce evidence in their favour. Subsequently the workman filed a petition to recall him for his re-examination. Accordingly the workman was re-examined on recall on the 15th November 2008 and was further cross-examined by the management. The workman Shri Biswal during recall stated that, he has amicably settled this matter with management and with intervention of Bhadra Logs he agreed to receive Rs. 1,70,000 towards full and final settlement without any future claim. In his cross-

examination he stated that he would not claim any other relief in future against the management if he receive the said amount. The management did not examine any other witness on his behalf. Accordingly the evidence from both the sides were closed. After amicable settlement between both parties, management agreed the claim of the workman to pay him Rs. 1,70,000 (One lakh seventy thousand) only. Hence in the change of circumstances considering the oral testimony of the workman, it is felt that he is entitled to get Rs. 1,70,000 only from the management. Hence order.

### ORDER

6. In the result the reference is answered accordingly. The management is directed to pay Rs. 1,70,000 in favour of the workman Shri Padma Charan Biswal, ex-Security Guard of Sewa Paper Mill Ltd., towards full and final settlement.

Dictated and corrected by me.

P. K. JENA  
21-11-2008  
Presiding Officer  
Labour Court, Jypore

P. K. JENA  
21-11-2008  
Presiding Officer  
Labour Court, Jeypore

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By order of the Governor  
GUNANIDHI JENA  
Deputy Secretary to Government